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National Trecartin Electric, Inc. and International Brotherhood of Electrical Workers, Local 640, AFL-CIO. Case 28–CA–15178

August 10, 2000

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX AND
BRAME

On April 21, 1999, the National Labor Relations Board issued an unpublished Order, inter alia, adopting a decision¹ of the Administrative Law Judge and ordering the Respondent, National Trecartin Electric, Inc., to make whole Larry Beougher, Gene Foret, Torrence Orr, and Donald Smith for their losses resulting from the Respondent's unfair labor practices in violation of the National Labor Relations Act.²

A controversy having arisen over the amount of backpay due discriminatees, on December 21, 1999, the Regional Director for Region 28 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. On March 7, 2000, the Respondent filed an answer to the compliance specification. The Respondent, however, withdrew its answer on June 8, 2000. On June 13, 2000, the Region approved the Respondent's withdrawal of its answer. Based on the Respondent's withdrawal of its answer and the Region's approval of such withdrawal, the legal effect is the same as if the Respondent had never filed an answer to the compliance specification.

On June 19, 2000, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On June 20, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

¹ On March 10, 1999, the administrative law judge issued a decision finding that the Respondent had violated Sec. 8(a)(1) and (3) of the Act by interrogating employees about their union activities and by discharging or otherwise discriminating against employees because of their union activities. The judge ordered the Respondent to cease and desist from interrogating, discharging, or otherwise discriminating against employees because of their union activities and offer to reinstate and make whole certain employees, with backpay.

² On September 17, 1999, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing in full the Board's Order.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent of said amounts to the discriminatees, plus interest accrued on said amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, National Trecartin Electric, Inc., Phoenix, Arizona, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest³ and minus tax withholdings required by Federal and state laws:

Larry Beougher	\$5,971.29
Gene Foret	1,026.61
Torrence Orr	1,758.65
Donald L. Smith	<u>1,328.44</u>
Total:	\$10,084.99

Dated, Washington, D.C. August 10, 2000

John C. Truesdale, Chairman

Sarah M. Fox, Member

J. Robert Brame III, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

³ See *New Horizons for the Retarded*, 283 NLRB 1173 (1987).